

REMARKS

The Applicant has carefully reviewed the Office Action mailed July 22, 2009 (hereinafter "Office Action") and offers the following remarks.

Initially, the Applicant wishes to thank Examiner Aggarwal for taking the time to speak with the Applicant's representative, Tony Josephson, on October 6, 2009. During the Examiner interview, the pending claims along with the rejection issued in the Office Action were discussed. No agreement was reached.

Claims 7 and 15 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. In particular, the Patent Office objected to the feature of "wherein the image capture device is not a scanner" recited in claims 7 and 15. The Applicant respectfully traverses the rejection.

Initially, the Applicant wishes to point out that the Applicant is entitled to disclaim something that may arguably fall within the broadest reasonable interpretation of the claims. By reciting that the image capture device is not a scanner, the Applicant is merely pointing out that the claim does not cover a scanner in order to avoid an overly broad interpretation of the pending claims when viewed in light of the Specification. Thus, the Applicant submits that the claims comply with 35 U.S.C. § 112, first paragraph.

Nonetheless, according to Chapter 2163 of the M.P.E.P., "While there is no in haec verba requirement, newly added claim limitations must be supported in the specification through express, implicit, or inherent disclosure." The Applicant submits that the feature of an image capture device not being a scanner is both implicit and inherent in the Specification as originally filed. More specifically, throughout the originally filed application, such as Figures 2-10 and the accompanying description, discussion is made regarding a digital camera 110, the various components of the digital camera 110, and the operation of the digital camera 110. The Applicant submits that as the Specification and the Figures disclose a digital camera, it is inherent that an image capture device is not a scanner. More specifically, as the Specification explicitly discloses a digital camera 110, it necessarily flows that the image capture device cannot be a scanner.

The Applicant also submits that, as the Specification and the Figures disclose a digital camera, it is implicit that an image capture device is not a scanner. In particular, as the Specification explicitly discloses a digital camera 110, one skilled in the art would reasonably

infer that the image capture device is not a scanner. For at least this reason and the reasons noted above, claims 7 and 15 comply with the written description requirement under 35 U.S.C. § 112, first paragraph, and the Applicant requests that the rejection be withdrawn. Likewise, claims 8, 9, 11, 14, 16-18, and 20-22, which depend from either claim 7 or claim 15, are patentable for at least the same reasons.

The present application is now in a condition for allowance and such action is respectfully requested. The Examiner is encouraged to contact the Applicant's representative regarding any remaining issues in an effort to expedite allowance and issuance of the present application.

Respectfully submitted,
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